

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-96247; File No. SR-NYSE-2022-48)

November 7, 2022

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Delete Legacy Disciplinary Rules 475, 476, 476A, and 477; Adopt New Rule 2050; and Make Conforming Changes to Rules 2A, 27, 36, 600A, 619, 637, 3170, 8001, 8130, 8320, 9001 and 9217

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 27, 2022, New York Stock Exchange LLC (“NYSE” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to (1) delete legacy disciplinary Rules 475, 476, 476A, and 477 as obsolete and make conforming changes to Rules 2A, 36, 600A(c), 637, 8001, 8130(d), 8320(d) and 9001, and (2) adopt a new Rule 2050 incorporating the substantive violations currently in Rule 476(a) without change and make conforming changes to Rules 27, 619(h), 3170(C)(3) and 9217. The proposed rule change is available on the Exchange’s website at www.nyse.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to (1) delete legacy disciplinary Rules 475, 476, 476A, and 477 as obsolete and make conforming changes to Rules 2A, 36, 600A(c), 637, 8001, 8130(d), 8320(d) and 9001, and (2) adopt a new Rule 2050 incorporating the substantive violations currently in Rule 476(a) without change and make conforming changes to Rules 27, 619(h), 3170(C)(3) and 9217.

Background and Proposed Rule Change

In 2013, the Commission approved the Exchange’s adoption of rules relating to investigation, discipline, and sanctions, and other procedural rules, based on the rules of the Financial Industry Regulatory Authority (“FINRA”).³ The Exchange represented in that filing

³ See Securities Exchange Act Release No. 69045 (March 5, 2013), 78 FR 15394 (March 11, 2013) (SR-NYSE-2013-02) (Order Approving Proposed Rule Change Adopting Investigation, Disciplinary, Sanction, and Other Procedural Rules That Are Modeled on the Rules of the Financial Industry Regulatory Authority and To Make Certain Conforming and Technical Changes). Beginning in 2016, the Exchange’s affiliates have each in turn adopted the FINRA disciplinary rules. In 2016, NYSE American LLC (“NYSE American”) adopted its Rule 8000 and Rule 9000 Series based on the NYSE and FINRA Rule 8000 and Rule 9000 Series. See Securities Exchange Act Release Nos. 77241 (February 26, 2016), 81 FR 11311 (March 3, 2016) (SR-NYSEMKT-2016-30). In 2018, the Commission approved NYSE National, Inc.’s (“NYSE National”) adoption of

that when the transition to the new disciplinary rules was complete and there are no longer any member organizations or persons subject to Rules 475, 476, 476A, and 477, the Exchange would submit a proposed rule change that would delete such rules (except for the listed offenses under NYSE Rule 476(a)).⁴ The Exchange represents that the transition to the new disciplinary rules is complete and there are no longer any member organizations or persons⁵ subject to Rules 475,

the NYSE National Rule 10.8000 and Rule 10.9000 Series based on the NYSE American and FINRA Rule 8000 and Rule 9000 Series. See Securities Exchange Act Release No. 83289 (May 17, 2018), 83 FR 23968 (May 23, 2018) (SR-NYSENat-2018-02). In 2019, NYSE Arca, Inc. (“NYSE Arca”) adopted the NYSE Arca Rule 10.8000 and 10.9000 Series based on the NYSE American Rule 8000 and Rule 9000 Series. See Securities Exchange Act Release No. 85639 (April 12, 2019), 84 FR 16346 (April 18, 2019) (SR-NYSEArca-2019-15). Most recently, NYSE Chicago also adopted investigation, disciplinary, sanction, and other procedural rules modeled on the rules of its affiliates. See Securities Exchange Act Release No. 95020 (June 1, 2022), 87 FR 35034 (June 8, 2022) (SR-NYSECHX-2022-10).

⁴ See Securities Exchange Act Release No. 68678 (January 16, 2013), 78 FR 5213, 5219 (January 24, 2013) (SR-NYSE-2013-02) (Notice of Filing of Proposed Rule Change Adopting Investigation, Disciplinary, Sanction, and Other Procedural Rules That Are Modeled on the Rules of the Financial Industry Regulatory Authority and To Make Certain Conforming and Technical Changes) (“Release No. 68678”).

⁵ The Exchange no longer has allied members. The references to “allied member” in Rules 476 and 476A should be to “principal executive.” In 2008, the Exchange replaced the term “allied member” with the newly defined category of “principal executive” but did not make corresponding technical changes to Rules 476 and 476A. See Securities Exchange Act Release No. 58549 (September 15, 2008), 73 FR 54444, 54445 (September 19, 2008) (SR-NYSE-2008-80) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto Conforming Certain NYSE Rules to Changes to NYSE Incorporated Rules Recently Filed by the Financial Industry Regulatory Authority, Inc.); Rule 311.18 (defining “principal executive”). See generally Securities and Exchange Act Release No. 58103 (July 3, 2008), 73 FR 40403, 40403-04 (July 14, 2008) (SR-FINRA-2008-036) (Notice of Filing of a Proposed Rule Change Relating to the Incorporated NYSE Rules) (proposing in part to substitute “principal executive” for “allied member” in the Incorporated NYSE Rules); Securities and Exchange Act Release No. 58533 (September 12, 2008), 73 FR 54652 (September 22, 2008) (SR-FINRA-2008-036) (Order Approving Proposed Rule Change Relating to Incorporated NYSE Rules). The Exchange will be submitting a separate rule filing to replace the remaining references to “allied member” in its rules with “principal executive.”

476, 476A, and 477, and that those rules can therefore be deleted as obsolete.

The Exchange proposes conforming changes to Rules 2A (Jurisdiction), 36 (Communications Between Exchange and Members' Offices), 600A(c), and 637 (Failure to Honor Award) that contain references to one or more of the rules proposed to be deleted. The following rules reflecting the transition from the legacy disciplinary rules to the current rule set would be deleted in their entirety: Rule 8130(d) (Retention of Jurisdiction); Rule 8320(d) (Payment of Fines, Other Monetary Sanctions, or Costs; Summary Action for Failure to Pay); Rule 8001 (Effective Date of Rule 8000 Series); and Rule 9001 (Effective Date of Rule 9000 Series).

In connection with the deletion of Rule 476, the Exchange also proposes a new Rule 2050 titled "Other Offenses" that would, consistent with its filing adopting the FINRA disciplinary rules, retain the listed offenses in Rule 476(a)(1)-(11) without substantive change. Proposed Rule 2050 would provide that a member organization or covered person⁶ violates the provisions of the Rule if it commits any of the enumerated offenses, which would be transposed from Rule 476(a) in the same order and without changes except for Rule 476(a)(8), which is marked "Reserved." The Exchange further proposes conforming changes to the following rules to replace references to Rule 476(a) with Rule 2050: Rule 27 (Regulatory Cooperation); Rule

⁶ NYSE Rule 9120(g) defines "covered person" to mean a "member, principal executive, approved person, registered or non-registered employee of a member organization, or other person (excluding a member organization) subject to the jurisdiction of the Exchange." The term was drafted to appropriately capture all persons subject to the legacy disciplinary rules and preserve the Exchange's scope of jurisdiction at the time the Rule 8000 and Rule 9000 Series were adopted. See Release No. 68678, 78 FR 5213 at 5219. Under NYSE Rule 2(a), the term "member" means a natural person associated with a member organization who has been approved by the Exchange and designated by such member organization to effect transactions on the floor of the Exchange or any facility thereof. See id.

619(h) (General Provision Governing Subpoenas, Production of Documents, etc.); Rule 3170(C)(3) (Tape Recording of Registered Persons by Certain Firms); and Rule 9217 (Violations Appropriate for Disposition Under Rule 9216(b)).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Exchange Act,⁷ in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

Specifically, the Exchange believes that deletion of the obsolete legacy disciplinary rules now that there are no longer any member organizations or persons subject to those rules, and making conforming changes to the rules referencing those legacy disciplinary rules, would increase the clarity and transparency of the Exchange's rules and remove impediments to and perfect the mechanism of a free and open market by ensuring that persons subject to the Exchange's jurisdiction, regulators, and the investing public could more easily navigate and understand the Exchange Bylaws and rules. The Exchange further believes that the proposed amendments would not be inconsistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from increased transparency and clarity, thereby reducing potential confusion.

The Exchange further believes that retaining the substantive offenses in Rule 476(a) without change is designed to prevent fraudulent and manipulative acts and practices by

⁷ 15 U.S.C. 78f(b)(5).

permitting the Exchange to continue to carry out its oversight and enforcement responsibilities with respect to the substantive provisions currently enumerated in Rule 476(a). For the same reasons, retention of those provisions would not be inconsistent with the public interest and the protection of investors.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The proposed rule change is not intended to address competitive issues but rather is concerned solely with deleting obsolete rules and making related and conforming changes.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act⁸ and subparagraph (f)(6) of Rule 19b-4 thereunder.⁹

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NYSE-2022-48.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSE-2022-48. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be

available for website viewing and printing in the Commission’s Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSE-2022-48, and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

J. Matthew DeLesDernier

Deputy Secretary

¹⁰ 17 CFR 200.30-3(a)(12).